

# Clay County / IUE 234 (Roads)

2004-2005  
CEO 1154  
Sector 1  
RECEIVED  
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PUBLIC EMPLOYMENT  
RELATIONS BOARD

In Re Fact Finding between

Iowa PERB File No. 1154/Sector 1

Clay County, Iowa,

Employer,

## RECOMMENDATIONS OF FACT FINDER

and

International Union of Operating Engineers,  
Local 234,

Union,

Pursuant to Iowa Code Chapter 20, Iowa Public Employment Relations Section 20.21 the above captioned matter came on for a Fact Finding hearing on April 25, 2005 at 10:30 AM in the Clay County Administration building in Spencer, Iowa.

James A. Lundberg was selected by the parties to serve as the neutral Fact Finder from an Iowa Public Employment Relations Board list of Fact Finders.

The Fact Finding hearing was closed on April 25, 2005 following submission of all evidence and arguments by the parties.

### APPEARANCES:

#### **FOR THE EMPLOYER:**

James R. Swanger, Esq.  
The Financial Center  
666 Walnut Street , Suite 2000  
Des Moines, IA 50309-3989

#### **FOR THE UNION**

MacDonald Smith, Esq.  
530 Frances Building  
530 Fifth Street -- P.O. Box 1194  
Sioux City, IA 551102

The following five issues are at impasse and have been submitted to the Fact Finder:

Leaves of Absence --

**Issue #1 – Section 11.2 – Sick Leave Notification and Verification**

**Issue #2 – Section 11.3 – Bereavement Leave: Eligibility and Administration**

**Issue #3 – Section 11.8 – Family Illness Leave**

Vacations --

**Issue #4 – Section 13.2 Five Weeks After Thirty Years of Service**

Wages –

**Issue #5 – Appendix A Base Wage Rates, Longevity and Red Circled Employees**

**ISSUE #1 – Section 11.2 – Sick Leave Notification and Verification**

**Employer's Final Position:**

11.2 Sick Leave: Notification and Verification. When absences due to sickness are necessitated, the employee shall notify the Engineer or his/her designee prior to the beginning of his/her scheduled reporting time. The Employer may require a doctor's statement at the employee's cost. Should a doctor's statement be required, the employee will be notified prior to returning to his/her job the next work day. In order to be eligible for sick leave to attend a medical appointment more than thirty (30) miles from the employee's place of employment, the employee must give notice to the Engineer ten (10) days in advance of the appointment unless a bona fide emergency is involved.

The Employer argues the Sick Leave policy in place before the negotiation of this agreement is inconsistent with the Sick Leave policies of every County within the

comparison group. Clay County should adopt the predominate policy within the comparison group. Six of the eight comparable counties have Sick Leave policies that allow the Employer to require a Doctor's statement anytime an employee takes Sick Leave. Only Dickinson County and Emmet County restrict the Employer's ability to require a Doctor's statement, when an employee is absent from work for illness.

**Union's Final Position:**

11.2 Sick Leave: Notification and Verification. When absences due to sickness are necessitated, the Employee shall notify the Engineer or his/her designee prior to the beginning of his/her scheduled reporting time. After three (3) consecutive days missed, the Employer may require a doctor's statement at the Employee's cost. Should a doctor's statement be required, the Employee will be notified prior to returning to his/her job the next work day. In order to be eligible for sick leave to attend a medical appointment more than thirty (30) miles from the Employee's place of employment, the Employee must give notice to the Engineer ten (10) days in advance of the appointment unless a bona fide emergency is involved.

The Union argues that the policy found in the Employee handbook, wherein the Employer has the right to require a Doctor's statement after three days of absence should be adopted in the collective bargaining agreement. The Employer submitted no evidence that the existing policy has been problematic.

**Fact Finder's Discussion:**

While there is no evidence that the existing policy has been abused by Clay County employees, limiting the Employer's right to require a Doctor's statement to those instances where an employee has been away from work for alleged health reasons for at

least three days is completely outside of the range of policies found with the comparison group. The Fact Finder recommends that the parties adopt a policy wherein the Employer may require a doctor's statement after two days. A two day policy is consistent with two of the comparable Counties and more consistent with past practice than the Employer's proposed anytime policy. Since there is no evidence of abuse of the three day policy, allowing the Employer to demand a doctor's statement for any illness related absence is unnecessary.

**Recommendation:**

The Fact Finder recommends the following provision:

11.2 Sick Leave: Notification and Verification. When absences due to sickness are necessitated, the Employee shall notify the Engineer or his/her designee prior to the beginning of his/her scheduled reporting time. After two (2) consecutive days missed, the Employer may require a doctor's statement at the Employee's cost. Should a doctor's statement be required, the Employee will be notified prior to returning to his/her job the next work day. In order to be eligible for sick leave to attend a medical appointment more than thirty (30) miles from the Employee's place of employment, the Employee must give notice to the Engineer ten (10) days in advance of the appointment unless a bona fide emergency is involved.

**ISSUE #2 -- Section 11.3 -- Bereavement Leave: Eligibility and Administration**

**Employer's Final Position:**

11.3 Bereavement Leave: Eligibility and Administration. All regular full-time Employees will be allowed time off with eight (8) hours of pay on the following schedule: From the date of death to the date of funeral services not to exceed five (5)

days per occurrence for arrangements and attending the funeral of a Wife, Husband, Child, Mother, Father, Brother, Sister, Grandparents, Grandchildren, Great-Grandchild, Mother-in Law, Father-in-Law, Brother-in-Law, Sister-in-Law, Step-Child, Step-parent. Leave for extended family members (Aunt, Uncle, Nephew, Niece, Grandparents-in-Law, Son or Daughter-in-Law) shall only be for the day of the funeral.

The County proposes a moderate adjustment to the existing Bereavement Leave eligibility criteria. Despite the proposed modification, which no longer allows five days Bereavement Leave for grandparents-in-law, son-in-law, and daughter-in-law, the Employer's proposal allows more days off for more relations than any other County in the comparison group.

**Union's Final Position:**

11.3 Bereavement Leave: Eligibility and Administration. All regular full-time Employees will be allowed time off with eight (8) hours of pay per day on the following schedule: From the date of death to the date of funeral services not to exceed five (5) days per occurrence for arrangements and attending the funeral of a Wife, Husband, Child, Mother, Father, Brother, Sister, Grandparents, Grandchildren, Great-Grandchild, Mother-in-law, Father-in-law, Brother-in-law, Sister-in-law, Grandparent-in-law, Son or Daughter-in-law, Step Child, Step Parent. Leave for extended family members (Aunt, Uncle, Nephew, Niece) shall only be for the day of the funeral.

The Union argues that the existing policy should remain in effect. There is no evidence that the existing policy has resulted in any abuse by Employees or that it has resulted in any significant loss of work by any employee.

**Fact Finder's Discussion:**

Both proposals make a significantly greater number of days available for Bereavement Leave for a greater number of relations than other Counties in the comparison group. The fact that the two proposals are so close suggests that the existing policy has resulted in few, if any problems. The Employer did not allege excessive loss of time from work nor did the Employer suggest that the existing policy has been abused. Since the parties only disagree over whether two relationships – Grandparent-in-law and Son or Daughter-in-law should be included as relations for whom a Bereavement Leave of 5 days is available, the Fact Finder recommends that the parties adopt a Bereavement policy that provides for five days Bereavement Leave for Son and Daughter-in-law but allows only one day Bereavement Leave for a Grandparent-in-law.

**Recommendation:**

The Fact Finder recommends the following provision:

11.3 Bereavement Leave: Eligibility and Administration. All regular full-time Employees will be allowed time off with eight (8) hours of pay per day on the following schedule: From the date of death to the date of funeral services not to exceed five (5) days per occurrence for arrangements and attending the funeral of a Wife, Husband, Child, Mother, Father, Brother, Sister, Grandparents, Grandchildren, Great-Grandchild, Mother-in-law, Father-in-law, Brother-in-law, Sister-in-law, Son or Daughter-in-law, Step Child, Step Parent. Leave for extended family members (Aunt, Uncle, Nephew, Niece, Grandparent-in-laws) shall only be for the day of the funeral.

### **ISSUE #3 – Section 11.8 – Family Illness Leave**

#### **Employer's Final Position:**

11.8 Up to two (2) days of sick leave per calendar year may be used by an employee for illness of a spouse, child or parent residing in the employee's household. The County may allow up to two (2) additional days of sick leave per calendar year if the employee's absence is supported by a valid doctor's statement.

The Employer's proposal makes a significant reduction in the number of relations for which sick leave may be taken. However, the availability of sick leave for those who live with the employee is doubled under the Employer's proposal. The existing policy of two days of sick leave for sickness of a relative is significantly less than the sick leave policies of other Counties.

#### **Union's Final Position:**

11.8 Family Illness Leave. Two (2) days of sick leave may be used by an Employee for illness of a member of the immediate family, as defined in 11.3.

The Union argues that the existing policy should be adopted.

#### **Discussion of Fact Finder:**

The number of sick days available for family illness in Clay County is significantly less than the number of days available within the comparison group. The continuation of a policy allowing for only 2 days for those relatives who live with the employee seems inadequate. While there are many possible circumstances that could arise that involve illness of a family member, increasing the number of days available when a family member who lives with the employee is ill appears to be a more practical benefit than a two day benefit available for an extended number of family members.

**Recommendation:**

The Fact Finder recommends the following provision proposed by the Employer:

11.8 Up to two (2) days of sick leave per calendar year may be used by an Employee for illness of a spouse, child or parent residing in the Employee's household. The County may allow up to two (2) additional days of sick leave per calendar year if the Employee's absence is supported by a valid doctor's statement.

**ISSUE #4 – Section 13.2 Five Weeks After Thirty Years of Service**

**Employer's Final Position:**

13.2 Eligible regular full-time Employees will be entitled to vacation leave for each complete year based upon employment. All vacations are earned and based on Employee's anniversary date of hire. Vacation for regular full-time Employees is as follows:

<u>Years</u>	<u>Vacation Hours</u>
After 1 full year of service	40 hours
After 2 full years of service	80 hours
After 8 full years of service	120 hours
After 20 full years of service	160 hours

(Note: During the term of this Agreement, Wayne Bishop and Richard Berger, who have more than 30 years of service, will continue to receive 200 vacation hours)

The Employer reduces the current vacation leave schedule by removing the provision for 200 hours of vacation after 30 years of service, except for those Employees



who currently receive the benefit. The proposal is intended to bring the County vacation policy in line with the comparison group.

**Union's Final Position:**

13.2 Annual leave shall be used when Employees wish to take vacation or to be otherwise absent from work for reason unrelated to other forms of leave.

Eligible regular full-time Employees will be entitled to vacation leave for each complete year based upon employment. All vacations are earned and based on Employee's anniversary date of hire. Vacation for regular full-time Employees is as follows:

<u>Years</u>	<u>Vacation Hours</u>
After 1 full year of service	40 hours
After 2 full years of service	80 hours
After 8 full years of service	120 hours
After 20 full years of service	160 hours (4 weeks or 20 days)
After 30 full years of service	200 hours (5 weeks of 25 days)

The Union proposes continuation of the existing vacation policy. It is true that Clay County is the only County within the comparison group that has a five week vacation provision. However, the vacation accrual rate for Clay County Employees is slower than the accrual rate in most of the other Counties. Employees in Cherokee County, Dickenson County and Emmet County earn four weeks of vacation after only fifteen years of employment. In other counties four weeks of vacation is earned after 18 or 19 years of employment.

**Discussion of Fact Finder:**

The Union's argument on this issue is convincing. Changing the existing schedule by removing the final vacation step without reducing the number of years needed to earn four weeks of vacation would give Clay County Employees a vacation benefit that is less valuable and does not compare with the benefit available to Employees within the comparison group.

**Recommendation:**

The Fact Finder recommends adoption of the Union's proposal as follows:

13.2 Annual leave shall be used when Employees wish to take vacation or to be otherwise absent from work for reason unrelated to other forms of leave.

Eligible regular full-time Employees will be entitled to vacation leave for each complete year based upon employment. All vacation are earned and based on Employee's anniversary date of hire. Vacation for regular full-time Employees is as follows:

<u>Years</u>	<u>Vacation Hours</u>
After 1 full year of service	40 hours
After 2 full years of service	80 hours
After 8 full years of service	120 hours
After 20 full years of service	160 hours (4 weeks or 20 days)
After 30 full years of service	200 hours (5 weeks of 25 days)

## **ISSUE #5 – Appendix A Base Wage Rates, Longevity and Red Circled Employees**

### **Employer's Final Position:**

#### **APPENDIX A**

##### **I. Regular Hourly Rates of Pay Effective First Full Pay Period Beginning After:**

<u>Pay Classification</u>	<u>Current</u>	<u>7/1/05</u>
Base	\$15.45	\$15.76
Operator	\$15.81	\$16.13

- A. During their first year of employment, Employees will be paid 80% of the Base Rate.
- B. During their second year of employment, Employees will be paid 85% of their Base Rate.
- C. During their third year of employment, Employees will be paid 90% of the Base Rate.
- D. During their fourth year of employment, Employees will be paid 95% of the Base Rate.
- E. During their fifth year of employment, Employees will be paid the Base Rate.
- F. On the July 1<sup>st</sup> following their 6<sup>th</sup> Anniversary of employment, Employees will be advanced to Operator.

##### **II. Longevity Pay**

- A. In Addition to the minimum straight – time hourly wage rates set forth above, eligible full- time Employees covered by this Agreement who were hired after July 1, 2001, will receive longevity pay in accordance with the following schedule:

40 hours per week

Hours Longevity

Pay Increments

Five (5) Years of Continuous Service.....	\$ .05
Ten (10) Years of Continuous Service.....	\$ .10
Fifteen (15) Years of Continuous Service.....	\$ .15
Twenty (20) Years of Continuous Service.....	\$ .20
Twenty -Five (25) Years of Continuous Service....	\$ .25

B. Eligible full-time Employees covered by this Agreement who were hired prior to July 1, 2001, will receive longevity pay in accordance with the following schedule:

40 hours per week

Hours Longevity

Pay Increments

Five (5) Years of Continuous Service.....	\$ .12
Ten (10) Years of Continuous Service.....	\$ .26
Fifteen (15) Years of Continuous Service.....	\$ .40
Twenty (20) Years of Continuous Service.....	\$ .55
Twenty -Five (25) Years of Continuous Service....	\$ .69

III. Red Circled Employees

The following red-circled Operators will be paid the following hourly rates of pay during the term of this Agreement.

Regular Hourly Rates of Pay Effective First Full Pay Period Beginning after:

<u>Name</u>	<u>Current</u>	<u>7/1/05</u>
Wayne Bishop	\$16.23	\$16.55
John Fogarty	\$16.75	\$17.07
James Joenks	\$16.23	\$16.55
Darrell Nordman	\$16.23	\$16.55
Jonathan Winterboer	\$16.23	\$16.55

The Employer, using the Operator wage rate for comparison, argues that Clay County operator wages are \$.37 above the average wage rate within the comparison group. The Employer's proposal will keep the wages of Clay County Operator, which is essentially a 2% across the board wage increase will result in the Clay County Operator's wage remaining above the average wage within the comparison group.

Longevity pay for Clay County Employees is significantly greater than the average longevity pay within the comparison group. While the Employer's proposal results in a longevity schedule that is consistent with the comparison group, it continues longevity benefits for current senior employees and adds longevity pay for employees who have not been eligible for longevity pay.

**Union's Final Position:**

**Appendix "A" – Wages**

Regular hourly rates of pay effective July 1, 2005 for classification of Equipment Operators I, II, III, IV & V, Truck Drivers I, II & III, Laborers and Service Manager Foreman designate will increase by three and one fourth percent (3.25%) across-the board:

- A. During their first year of employment, Employees will be paid 80% of the Base Rate.
- B. During their second year of employment, Employees will be paid 85% of their Base Rate.
- C. During their third year of employment, Employees will be paid 90% of the Base Rate.
- D. During their fourth year of employment, Employees will be paid 95% of the Base Rate.
- E. During their fifth year of employment, Employees will be paid the Base Rate.
- F. On the July 1<sup>st</sup> following their 6<sup>th</sup> Anniversary of employment, Employees will be advanced to Operator.

### 3. Longevity Pay

- A. In Addition to the minimum straight –time hourly wage rates set forth above, eligible full- time Employees covered by this Agreement will receive longevity pay in accordance with the following schedule:

Years of	40 hours per week
Service	Hours Longevity
<u>Completed</u>	<u>Pay Increments</u>
5	\$.12 per hour
10	\$.26 per hour
15	\$.40 per hour
20	\$.55 per hour
25	\$.69 per hour

The Union proposes an across the board wage increase of 3.25%. The Union also argues that the existing longevity pay provision should be available to all Employees. The average wage increase within the comparison group, exclusive of longevity pay, was 2.75%. The Union argues that it should maintain its relative position within the comparison group.

**Fact Finder's Discussion:**

The Union has presented a reasonable framework for evaluating the issue of wages. Maintaining the relative wage ranking of County Employee's within the comparison group is most appropriate. An across the board wage increase of 2.75% together with adoption of the existing longevity pay schedule for all Employees should allow Clay County Employees to retain their wage position within the comparison group.

**Recommendation:**

The Fact Finder recommends the adoption of a 2.75% across the board wage increase as follows:

**Appendix "A" – Wages**

Regular hourly rates of pay effective July 1, 2005 for classification of Equipment Operators I, II, III, IV & V, Truck Drivers I, II & III, Laborers and Service Manger Foreman designate will increase by two and three quarters percent (2.75%) across-the board:

G. During their first year of employment, Employees will be paid 80% of the  
Base Rate.

H. During their second year of employment, Employees will be paid 85% of their  
Base Rate.

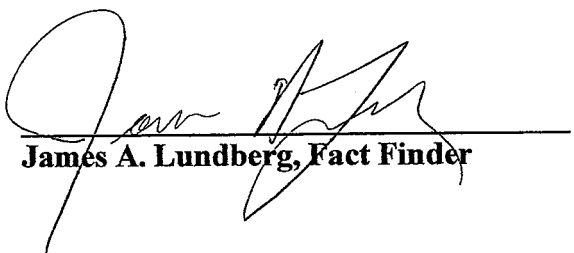
- I. During their third year of employment, Employees will be paid 90% of the Base Rate.
- J. During their fourth year of employment, Employees will be paid 95% of the Base Rate.
- K. During their fifth year of employment, Employees will be paid the Base Rate.
- L. On the July 1<sup>st</sup> following their 6<sup>th</sup> Anniversary of employment, Employees will be advanced to Operator.

### 3. Longevity Pay

- B. In Addition to the minimum straight -time hourly wage rates set forth above, eligible full- time Employees covered by this Agreement will receive longevity pay in accordance with the following schedule:

Years of	40 hours per week
Service	Hours Longevity
<u>Completed</u>	<u>Pay Increments</u>
5	\$.12 per hour
10	\$.26 per hour
15	\$.40 per hour
20	\$.55 per hour
25	\$.69 per hour

**Dated: May 7, 2005**

  
**James A. Lundberg, Fact Finder**



## **CERTIFICATE OF SERVICE**

I certify that on the 8<sup>TH</sup> DAY OF May, 2005, I served the foregoing Report upon each of the parties to this matter by mailing a copy to them at their respective addresses as shown below:

Clay County Representative

James Swanger  
666 Walnut Street, Suite 2000  
Des Moines, IA 50309

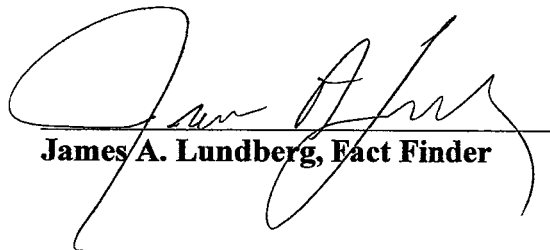
IUOE Local 234 Representative

MacDonald Smith  
530 Frances Building  
503 Fifth Street, PO Box 1194  
Sioux City, IA 51102

and

Kevin Holzhauser  
4880 Hubbell Avenue  
Des Moines, IA 50317

I further certify that on the 8<sup>th</sup> DAY of May, 2005 I will submit this Report for filing by mailing it to the Iowa Public Employment Relations Board, 510 East 12<sup>th</sup> Street, Suite 1B, Des Moines, IA 50319.



**James A. Lundberg, Fact Finder**